

IN THE SUPREME COURT OF THE STATE OF DELAWARE

AMENDMENT OF
SUPREME COURT
RULE 57

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Before **VEASEY**, Chief Justice, **WALSH, HOLLAND, BERGER AND STEELE**, Justices, constituting the Court *en Banc*.

ORDER

This 27th day of February, 2002, Supreme Court Rule 57 is amended effective *nunc pro tunc* December 13, 2001.

NOW, THEREFORE, IT IS ORDERED that Supreme Court Rule 57 be amended to read as follows:

RULE 57. ARTIFICIAL ENTITY AND PUBLIC BODY PRO SE REPRESENTATION IN CIVIL ACTIONS IN THE JUSTICE OF THE PEACE COURT

(a) Definitions. For purposes of this Rule,

(1) "Artificial entity" means any corporation incorporated in Delaware or any corporation doing business in Delaware pursuant to the provisions of 8 *Del.C.* § 371, any limited liability company defined under the provisions of 6 *Del.C.* § 18-101, any partnership or limited partnership as defined in 6 *Del.C.* § 15-101(11); any trust as defined in 12 *Del.C.* § 3501 *et seq.*, any estate for which an executor or administrator can act pursuant to 12 *Del.C.* § 1501 *et. seq.*, or any other entity falling within 6

Del.C. Chapter 31, including persons, firms and unincorporated associations transacting business in Delaware that have filed a certificate with the Prothonotary's office designating a trade name.

(2) "Public body" means any regulatory, administrative, executive, or legislative body of the State or of any political subdivision of the State, including, but not limited to, any board, bureau, commission, department, division, district, agency, or authority or, any municipal or county government.

(3) "Officer" means (a) the chief executive, operating, financial, legal, and accounting officers of an artificial entity or public body; (b) to the extent not encompassed by the foregoing, the chair of the governing board, president, treasurer, secretary, a vice-president, vice-chair, assistant secretary, assistant treasurer, superintendent, or other person who performs a major policymaking function for the artificial entity or public body; (c) trustee of a trust, executor or administrator of an estate, general partner of a partnership, member of a limited liability company; and (d) any other individual designated as an officer by the artificial entity or public body.

(4) "Employee" means either a full-time employee of the artificial entity or public body who has experience in the operations of the artificial entity or public body and has knowledge of the necessary facts and law relevant to the action before the Justice of the Peace Court; or manager who is responsible for the management of the property at issue in the action before the Justice of the Peace Court.

(b) Permitted Representation. Civil actions before Justice of the Peace Courts may be prosecuted and/or defended by an officer or employee of an artificial entity or public body, who need not be an attorney duly licensed to practice law in this State, but who has been authorized by the artificial entity or public body to represent it in a Justice of the Peace Court civil action in compliance with paragraph (c) of this Rule.

(c) Certificate of Representation.

(1) Filing of Certificate. To be duly authorized to represent an artificial entity or public body in the Justice of the Peace Court, the officer or employee must file a notarized Certificate of Representation executed by an officer of the artificial entity or public body. The Certificate, along with a \$15.00 fee, must be filed with the Chief Magistrate, prior to the time of filing of the initial pleading or at least one business day prior to any appearance, whichever shall occur first.

(2) Identification and Standing. The certificate shall include: (a) an identification of the artificial entity or public body; (b) a statement of the law or laws of the State of Delaware under which the artificial entity or public body is formed and exists; and (c) in the case of an artificial entity, an affirmation that it is in good standing.

(3) Attestation Regarding Representative. The certificate shall include a notarized attestation by the artificial entity or public body and its proposed

representative attesting to the fact that the officer or employee being certified: (a) has not been disbarred from, or is not currently under suspension or probation with respect to the practice of law in any state or jurisdiction within the United States; and (b) has not been convicted of a felony or a crime involving dishonesty or false statement in the ten-year period immediately prior to the appearance of the officer or employee in the court; and (c) has not been determined to have engaged in the unauthorized practice of law in this or any other jurisdiction; and (d) is not an employee whose primary duty is to prosecute or defend Justice of the Peace Court civil actions; and (e) is authorized to appear on behalf of the said artificial entity or public body in all matters before the Justice of the Peace Court; and (f) has not had any prior authorization pursuant to this Rule revoked by the Chief Magistrate.

(4) Initial Registration Fee. A payment for permission to represent the artificial entity or public body in the amount of \$15.00 must be attached to the Certificate of Representation. Funds received shall be deposited in the registration fund of the Delaware Supreme Court for the purpose of the governance of the Bar and the administration of justice and shall be distributed pursuant to approval of a majority of the members of the Supreme Court.

(5) Term of Certification. Said certifications shall be renewed by January 15 of the following year and by January 15 of each year thereafter by filing same, including the \$15.00 fee, with the Chief Magistrate. Certifications, along with the

\$15.00 fee, accepted on or after December 15 of each year shall authorize representation for the remainder of the term of certification and also serve as a renewal of the certification for the one-year period following January 15, unless otherwise terminated or revoked.

(6) Amendment of Certification. When the officer or employee experiences a change in circumstances affecting or pertaining to a material fact in the certificate, an amended notarized certification executed by an officer of the artificial entity or public body shall be filed within a reasonable period of time and at least one week prior to any appearance in a Justice of the Peace Court of such officer or employee on behalf of the artificial entity or public body. A copy thereof shall also be filed with the Chief Magistrate. The Chief Magistrate shall decide, based upon the amended certificate and this Rule, whether or not the officer or employee shall be permitted to represent the artificial entity or public body.

(7) Termination of Certification. In the event of a termination of the relationship of an officer or employee of the artificial entity or public body who has been certified to represent the artificial entity or public body in any Justice of the Peace Court civil action, the artificial entity or public body shall notify in writing forthwith the Chief Magistrate; and the Justice of the Peace Court in which an action is pending involving said artificial entity or public body. Effective upon the filing of such notice the former officer or employee shall no longer be permitted to represent

said artificial entity or public body.

(8) Sanctions. Any certification filed pursuant to this paragraph which contains false or fraudulent information shall be forwarded by the Chief Magistrate to the Department of Justice for prosecution or other appropriate action of the offending party, as well as to the Board on the Unauthorized Practice of Law for any action which the Board may deem warranted. By filing a certification, the artificial entity or public body and its designated representative shall each subject themselves to the sanctions set forth in Justice of the Peace Miscellaneous Civil Rule 5.

(9) Revocation of Certification. The ability to represent an artificial entity or public body shall be subject to revocation by the Chief Magistrate upon review of a certificate or upon the recommendation of any Justice of the Peace. The ability to represent an artificial entity or public body by a non-lawyer is a privilege, not a right, which may be revoked in the sole discretion of the Chief Magistrate.

(10) Form of Certification. The form of certification referred to in this paragraph shall be prepared by the Chief Magistrate.

(d) Report to This Court. The Chief Magistrate shall, on or before the tenth day of the eleventh month following the effective date of this Rule, file with the clerk of this Court a report regarding the operation of this rule.

(e) Inapplicability of Rule. This Rule shall not be applicable with regard to:

(1) any case from which an appeal or extraordinary writ is lodged in the Court

of Common Pleas, or the Superior Court from any civil action which originated in the Courts of the Justices of the Peace;

(2) a duly licensed Delaware attorney-at-law or a person admitted pursuant to Supreme Court Rule 55 or 56 from representing an artificial entity or public body in any Justice of the Peace civil action.

BY THE COURT:


Justice